

BATHAE DUNNE LLP

Yavar Bathae (CA 282388)
Andrew C. Wolinsky (CA 345965)
445 Park Avenue, 9th Floor
New York, NY 10022
Tel.: (332) 322-8835
yavar@bathaeedunne.com
awolinsky@bathaeedunne.com

BATHAE DUNNE LLP

Brian J. Dunne (CA 275689)
Edward M. Grauman (admitted *pro hac vice*)
901 S. MoPac Expressway
Barton Oaks Plaza I, Suite 300
Austin, TX 78746
Tel.: (213) 462-2772
bdunne@bathaeedunne.com
egrauman@bathaeedunne.com

*Interim Co-Lead Counsel for the Advertiser
Classes*

**SCOTT+SCOTT ATTORNEYS AT LAW
LLP**

Amanda F. Lawrence (admitted *pro hac vice*)
Patrick J. McGahan (admitted *pro hac vice*)
Michael P. Srodoski (admitted *pro hac vice*)
156 South Main Street, P.O. Box 192
Colchester, CT 06415
Tel.: (860) 537-5537
alawrence@scott-scott.com
pmcgahan@scott-scott.com
msrodoski@scott-scott.com

**SCOTT+SCOTT ATTORNEYS AT LAW
LLP**

Patrick J. Coughlin (CA 111070)
Carmen A. Medici (CA 248417)
Hal D. Cunningham (CA 243048)
Daniel J. Brockwell (CA 335983)
600 W. Broadway, Suite 3300
San Diego, CA 92101
Tel.: (619) 233-4565
pcoughlin@scott-scott.com
cmedici@scott-scott.com
hcunningham@scott-scott.com
dbrockwell@scott-scott.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

vs.

META PLATFORMS, INC.,

Defendant.

Case No. 3:20-cv-08570-JD

**DECLARATION OF MARK BERNEY IN
SUPPORT OF ADVERTISER
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

DATE: December 14, 2023
TIME: 10:00 a.m.
DEPT. 11, 19th Floor
Hon. James Donato

1 I, Mark Berney, declare and state as follows:

2 1. I am a named Advertiser Plaintiff in the above-captioned litigation.

3 2. I am a citizen and resident of Whitefish, Montana.

4 3. I am the principal of 406 Property Services, PLLC, a Montana corporation formed
5 on June 3, 2015.

6 4. I am over the age of 18, am personally familiar with, and have personal knowledge
7 of the facts contained herein, which I could and would testify competently thereto.

8 5. I am aware that this class action lawsuit is brought on behalf of Facebook Inc.
9 (“Facebook”) advertisers that have been wronged between December 1, 2016, and December 31,
10 2020.

11 6. Between December 1, 2016, and December 31, 2020, I purchased advertising from
12 Facebook in 12 different transactions, spending \$900 through my credit cards to do so.

13 7. During this time period, I also bought \$10 worth of Facebook ads, in two
14 transactions, using Facebook Coupons.

15 8. On July 31, 2017, I bought advertising from Facebook in a transaction in the amount
16 of \$78.44, paid through my Visa card ending in -2561.

17 9. On August 22, 2017, I bought advertising from Facebook in a transaction in the
18 amount of \$121.56, paid through my Visa card ending in -2561.

19 10. On August 27, 2017, I bought advertising from Facebook in a transaction in the
20 amount of \$100.00, paid through my Mastercard ending in -8848.

21 11. On August 31, 2017, I bought advertising from Facebook in a transaction in the
22 amount of \$3.57, paid through my Mastercard ending in -8848.

23 12. On September 30, 2017, I bought advertising from Facebook in a transaction in the
24 amount of \$96.43, paid through my Mastercard ending in -8848.

25 13. On October 10, 2017, I bought advertising from Facebook in a transaction in the
26 amount of \$100.01, paid through my Mastercard ending in -5833.

27 14. On October 18, 2017, I bought advertising from Facebook in a transaction in the
28 amount of \$100.05, paid through my Mastercard ending in -5833.

1 15. On October 31, 2017, I bought advertising from Facebook in a transaction in the
2 amount of \$12.94, paid through my Mastercard ending in -5833.

3 16. On December 12, 2017, I bought advertising from Facebook in a transaction in the
4 amount of \$100.09, paid through my Visa card ending in -6864.

5 17. On December 31, 2017, I bought advertising from Facebook in a transaction in the
6 amount of \$76.91, paid through my Visa card ending in -6864.

7 18. On September 26, 2018, I bought advertising from Facebook in a transaction in the
8 amount of \$100.00, paid through my Visa card ending in -6864.

9 19. On September 30, 2018, I bought advertising from Facebook in a transaction in the
10 amount of \$10.00, paid through my Visa card ending in -6864.

11 20. My July 31, 2017, through December 31, 2017, ad buys (listed above) were
12 purchased by me on behalf of 406 Property Services, LLC. My September 26, 2018 and September
13 30, 2018 ad buys (listed above) were purchased by me on my own behalf.

14 21. I understand that, by this motion for class certification, I am moving to be appointed
15 class representative in this action and for my attorneys, Scott+Scott Attorneys at Law LLP and
16 Bathaee Dunne LLP, to be appointed class counsel. I understand that Advertiser Plaintiffs Katherine
17 Looper; Jessyca Frederick; Affilious, Inc.; and Mark Young are also moving to be appointed as class
18 representatives.

19 22. I understand that a class representative is a representative party who acts on behalf
20 of other class members in directing the litigation and am willing to serve in this capacity alongside
21 the Advertiser Plaintiffs.

22 23. I understand that, as a class representative, I have a duty to prosecute the case
23 vigorously and in the best interests of all class members, which includes reviewing important filings
24 with the Court, consulting with counsel during the course of the litigation, making recommendations
25 as to whether or not to accept a particular settlement offer, and testifying at deposition and trial if
26 called upon to do so. I have already testified at deposition in this case.

27 24. To the best of my knowledge, I have no conflicts of interest with any class member
28 that would prevent me from fairly and adequately representing the best interests of the class. I

1 understand that my compensation in this case will be the same as any other class members except
2 that I may, with Court approval, be reimbursed for my reasonable costs and expenses incurred as a
3 result of my acting as class representative.

4
5 I declare under penalty of perjury that the foregoing is true and correct.

6 Executed on _____, in Whitefish, Montana.

DocuSigned by:

7 Mark Berney

437109859351258

8 Mark Berney